IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3505 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD MUNICIPAL CORPN

Versus

LAVANYA COOP. HSG. SOCIETY LTD
THRO' CHAIRMAN PRAVINKUMAR SHAH

Appearance:
MR KIRIT I PATEL for Appellant
MR HH RAVAL for MR AK CLARK for Respondent

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE J.R.VORA

Date of decision: 22/02/2001

ORAL JUDGEMENT (Per : MR.JUSTICE M.R.CALLA)

1. This Appeal was admitted by a common order separately passed along with other cognate matters.

2. We have heard learned counsel for both the sides. This First Appeal u/s 411 of the Bombay Provincial Municipal Corporation Act, 1949, is directed against the order dated 15.2.2000, passed by the Small Cause Court, Ahmedabad, in Municipal Valuation Appeal No. 2808 of 1997 for the year 1996-97 in respect of the premises situated in Ward Ellisbridge-C/1 bearing Survey No. TPA-26/FP-101. Municipal Corporation had fixed the Gross Rateable Value at Rs. 76,020/- in respect of the premises as aforesaid for the year 1996-97. Against this assessment, the Appeal was preferred by the Assessee.

3. Learned counsel for the appellant has argued that the Small Cause Court has wrongly relied upon the decision rendered by this Court in the case of Rajanikant Jesinghbhai vs. Rameshchandra Kantilal, reported in 1982 (1) GLR 71 and in the case of Oriental Fire & General Insurance Company vs. Ahmedabad Municipal Corporation, reported in AIR 1994 (Guj) 167.

4. It is not disputed and the impugned order also shows that the Small Cause Court proceeded to consider the balance sheet of Lavanya Cooperative Housing Society Limited for the year 1991-92, which shows that the premises were constructed for a sum of Rs. 5,07,443.45. This was also corroborated by the account of expenditure of income for the year ending 31st March, 1992 and this account does not show the income received by the cooperative society. On that basis, the Small Cause Court has taken the cost of the construction for the premises in question as Rs. 5,07,443.45 and the Gross Rateable Value has been fixed at 7% of this cost of construction which comes to Rs. 35,521/- for the Assessment Year 1996-97. The copy of the balance sheet and the account of expenditure of income which have been taken into consideration by the Small Causes Court were never contested before the Court by the present Appellant and as the same were not contested in any manner and no other evidence was made available to disbelieve the same in such circumstances, it cannot be said that the Small Cause Court committed any error in taking into consideration these documents. The ratio of two decisions referred to above has been correctly applied by the Small Cause Court and we find that the view taken by the Small Cause Court is correct one and could be taken

in the facts of the present case with the application of the two decisions.

3. We, therefore, do not find any substance in this Appeal, the same is hereby dismissed with no order as to costs.

(M.R. Calla, J.)

(J.R. Vora, J.)

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